

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFERY CARNEY,

Petitioner,

v

Case No. 4:04-cv- 4

WILLIE O. SMITH,

Hon. Wendell A. Miles

Respondent.

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ORDER ON PETITIONER'S OBJECTIONS TO MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

On February 13, 2006, United States Magistrate Judge Hugh W. Brenneman, Jr. issued a Report and Recommendation ("R & R") recommending that the petition for habeas corpus be dismissed without prejudice for lack of exhaustion. Petitioner has filed objections to the R & R (docket no. 53). The court, having reviewed the R & R filed by the United States Magistrate Judge in this action, having reviewed the relevant portions of the file in this case, and having reviewed petitioner's objections, agrees with the R & R and concludes that this action must be dismissed for lack of exhaustion. This court will therefore enter an order dismissing this action without prejudice.

So ordered this 21st day of March, 2006.

/s/ Wendell A. Miles
Wendell A. Miles
Senior U.S. District Judge